

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ANDERSON FEDERATION OF)
TEACHERS; AVON FEDERATION)
OF TEACHERS; MARTINSVILLE)
CLASSROOM TEACHERS ASSOCIATION;)
G. RANDALL HARRISON; SUZANNE)
LEBO and SHANNON ADAMS)
)
Plaintiffs,)
)
v.) Case No. 1:21-cv-01767-SEB-DML
)
TODD ROKITA, in his official capacity)
as the Attorney General of the State of)
Indiana; KATIE JENNER, in her official)
capacity as the Secretary of Education of)
the State of Indiana; and, TAMMY MEYER,)
in her official capacity as the Chair of the)
Indiana Education Employment Relations)
Board.)
)
Defendants.)

MOTION TO DISMISS DEFENDANTS JENNER AND MEYER

Come now Defendants Katie Jenner, in her official capacity as the Secretary of Education of the State of Indiana, and Tammy Meyer, in her official capacity as the Chair of the Indiana Education Employment Relations Board, by counsel, and submit this *Motion to Dismiss* under Trial Rule 12(b)(1) and, in support, states as follows:

1. This matter should be dismissed as to Secretary Jenner and Chair Meyer, because the Court lacks subject matter jurisdiction over Plaintiffs' claims against them.

Specifically, Plaintiffs lack standing under Article III of the United States Constitution to sue Secretary Jenner or Chair Meyer, inasmuch as the harm

alleged by Plaintiffs is not fairly traceable to acts or omissions of Secretary Jenner or Chair Meyer, and the injuries of which Plaintiffs complain will not be redressed by a favorable decision against Secretary Jenner or Chair Meyer.

2. On June 15, 2021, Plaintiffs filed their Complaint [ECF 1].
3. Secretary Jenner has been sued in her official capacity the Secretary of Education for the Indiana Department of Education (“DOE”), alleging in the Complaint that Secretary Jenner is “charged” with, “implementing provisions of Senate Enrolled Act 251. She is named in her official capacity for the purposes of obtaining injunctive relief under federal law.” [ECF 1, ¶ 24.]
4. Chair Meyer has been sued in her official capacity as one of the members of the Indiana Education Employment Relations Board (“IEERB”), alleging in the Complaint that Chair Meyer is “charged” with, “implementing provisions of Senate Enrolled Act 251. She is named in her official capacity for the purposes of obtaining injunctive relief under federal law.” [ECF 1, ¶ 25.]
5. The Complaint challenges the constitutionality of Indiana Senate Enrolled Act 251, codified at Ind. Code § 20-29-5 *et seq.* (“SEA 251”).
6. The Complaint also requests that the Court enjoin enforcement of the terms of SEA 251.
7. To the extent that Plaintiffs’ Complaint alleges that Plaintiffs are injured by SEA 251, such injury is not fairly traceable to Secretary Jenner or Chair Meyer, and a favorable decision against Secretary Jenner or Chair Meyer will not redress any alleged injury.

8. Plaintiffs' Complaint challenges SEA 251, yet SEA 251 has no mechanism for implementation, enforcement, administration, or invocation by Secretary Jenner or Chair Meyer.
9. A Memorandum of Law is submitted herewith and made part hereof.

WHEREFORE, Defendants request Plaintiffs' Complaint be dismissed as to Secretary Jenner and Chair Meyer for lack of standing and for all other appropriate relief.

Respectfully submitted,

THEODORE E. ROKITA
Attorney General of Indiana
Attorney No. 18857-49

Date: August 3, 2021

By: /s/ Kelly S. Earls
Kelly S. Earls
Attorney No. 29653-49
Deputy Attorney General
OFFICE OF INDIANA ATTORNEY GENERAL
TODD ROKITA
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, Indiana 46204-2770
Phone: (317) 234-4464
Fax: (317) 232-7979
Email: kelly.earls@atg.in.gov